

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.97 OF 2006

Mohammed Salim Buijharat Khan .. ..Appellant

Versus

The Municipal Corporation ..Respondent

Mr.S.K.Dubey for appellant

Mrs.Geeta Joglekar for BMC

CORAM : A.M.KHANWILKAR, J.

DATE : 8TH FEBRUARY, 2006.

P.C.:

1. I see no reason to depart from the findings recorded by the court below and which is the correct basis for refusing the ad-interim relief.

2. The document which is relied upon by the appellant does not correspond to the description of the property,

referred to in the suit notice which is described as Pahlwan Compound, 90 ft. Road, Sakinaka, Mumbai 400 072; whereas the Deed of Conveyance dated 15.10.1994 is in respect of land bearing Survey No.34, Hiss No.1, CTS No.362 Part and Survey No.34 Hissa No.2 CTS No.359 Part respectively of village Mohili, Taluka Kurla, Bombay Suburban District situated at 90 ft Road, Mohili Village, Sakinaka, Bombay 400 072. The Court below has observed that the appellant relied on 7/12 extract in respect of Survey No.34 Hiss no.1. That 7/12 extract indicates the name of one Juvelin D'Souza. The Deed of Conveyance relied upon also makes reference to the said Juvelin D'Souza. During the course of argument the counsel for the appellant however contends that the predecessor of the appellant has purchased the land in question from Juvelin D'Souza; however there is no reference to this fact either in the recital of the document produced or in the plaint as filed. If it is so, the court below has rightly refused to grant ad-interim relief. In view of this position, the Appeal as well as accompanying Civil Application also stands dismissed.